

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case Number 05-20008-BC
Honorable David M. Lawson

v.

WILLIAM EDWIN POPHAM and
MICHAEL TIMOTHY CRANE,

Defendants.

ORDER DENYING MOTIONS FOR RECONSIDERATION
AND FOR FRANKS HEARING

On August 8, 2005, a hearing was held in open court on the defendants' motion to suppress evidence. Testimony was taken from witnesses, including the search warrant affiant, William Veltman. On August 15, 2005, the Court entered an opinion and order, granting in part and denying in part the motion. This matter is now before the Court on a motion filed by the defendant Popham seeking reconsideration of this Court's opinion and order granting in part and denying in part the defendants' motion to suppress evidence. The defendant Popham has submitted a transcript of a preliminary examination conducted before the Honorable Allen C. Yenior, which will be made part of the record. The defendant Popham asserts that this transcript reveals inconsistencies in the statements of William Veltman, whose affidavit was the basis for the search warrant that was challenged in the motion to suppress.

After the August 8, 2005 hearing was held, the defendant Crane filed a motion for a *Franks* hearing. See *Franks v. Delaware*, 438 U.S. 154 (1978). The hearing held on August 8, 2005 is the functional equivalent of a *Franks* hearing. The motion will therefore be deemed a motion for reconsideration.

The Local Rules of this Court permit a party to file a motion for reconsideration of a ruling within ten days after its entry by the Court. Such a motion will be granted only if the movant identifies a “palpable defect” in this court’s disposition of the case. E.D. Mich. LR 7.1(g)(3). A “palpable defect” is a one that is obvious, clear, unmistakable, manifest, or plain. *Fleck v. Titan Tire Corp.*, 177 F. Supp. 2d 605, 624 (E.D. Mich. 2001). After reviewing the matters submitted, the Court’s conclusion is unchanged. The defendants have not shown a palpable defect in the Court’s order. Their motions will be denied.

Accordingly, it is **ORDERED** that the defendant Popham’s motion for reconsideration [dkt # 44] is **DENIED**.

It is further **ORDERED** that the defendant Crane’s motion for a *Franks* hearing [dkt # 31] is **DENIED**.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: November 9, 2005

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on November 9, 2005.

s/Tracy A. Jacobs
TRACY A. JACOBS